

**PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING
MARCH 8, 2016**

Place: Room 206

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Cameron, Cunningham, DiDonna, Olvany, Sini, Jr., Voigt (arrived at 8:15 P.M.)

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

Channel 79

Chairman Cameron opened the meeting at 8 P.M. and read the first agenda item:

GENERAL MEETING

Town Plan of Conservation & Development.

Glenn Chalder of Planimetrics will review with the Commission the 190+ comments received thus far (from: the public at the various public meetings and via e-mail; the Commission; members of the RTM; and Department staff), and the Commission will determine which comments become incorporated into the final draft. A public hearing date on the final draft will be set by the Commission. It is anticipated that this meeting will not involve additional public input or comment.

Glenn Chalder presented his most recent information regarding comments received from the public and other sources (As noted in his March 2, 2016 memo with attached chart of 191 comments) and how he recommended that the Commission incorporate or not incorporate those comments into the draft Town Plan of Conservation & Development. The Commission reviewed all of the comments on a chapter by chapter basis. Many comments focused on proper verbs to use, and updating and coordinating information within the draft Plan. The Commission asked that the circle radii on maps be noted as being a “reasonable walking distance” or ¼ or ½ mile distance, rather than “Transit Oriented”. The Commission also spent time discussing comments #116-#119 on pages 91-95. The Commission also discussed changing the color of some dots on pages 104-109. Overall, there were 191 points in Mr. Chalder’s report. During the discussion, at 8:15 P.M., Mr. Voigt entered the meeting.

Mr. Chalder suggested that the Commission prioritize the goals that are presented in the Plan. Commission members believed that prioritizing the goals by chapter would be appropriate. Mr. Ginsberg asked that Commission members provide any comments to him by next Tuesday so that a revised draft can be produced. Two versions would be produced—a redlined version for Commission members, so they can see the proposed changes, and a blacklined version for the general public with the changes incorporated. The revised final draft would then be disseminated as required by State Statute, including a referral to the Board of Selectmen, and a Planning and Zoning Commission public hearing will be scheduled for May 10th. Commission members agreed. The following motion was made: That the Commission schedule the public hearing for the draft Town Plan of Conservation and Development for May 10, 2016. The motion was made by Mr. Sini, seconded by Mr. Cunningham and unanimously approved.

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At about 9:45 p.m., Chairman Cameron then read the following agenda item:

Special Permit Application #153-D/Site Plan, Land Filling & Regrading Application #366, Atria Darien, 50 Ledge Road.

Requested clarifications/corrections to the February 2, 2016 approval.

Commission members reviewed the letter from Attorney Wilder Gleason dated February 23, 2016. They agreed with all the clarifications that he suggested. There was some concern about the use of hoe ramming or rock hammering to achieve the proper excavation of the ledge rock in that area. All members approved with the requested clarifications.

Chairman Cameron then read the following agenda item:

Amendment of Flood Damage Prevention Application #240-B, Thomas Mullaney, 9 Contentment Island Road. Request to change location of deck stair and add a fire pit.

Commission members reviewed the modifications and revisions requested by Curtis Streuli, Architect for Mr. Mullaney who resides at 9 Contentment Island Road. Since the requested modifications are fairly simple, but since they are in the Flood Hazard Zone, the Commission must review and act on the requested changes. The following motion was made: That the Commission approve the requested modifications and changes as detailed in the June 15, 2015 letter from Curtis Streuli and the accompanying architectural drawings and plans. The motion was made by Mr. Sini, seconded by Mr. Olvany and unanimously approved.

Chairman Cameron then read the following agenda item:

Land Filling & Regrading Application #341, J. Scott Lesko, 16 West Elm Street.

Request for extension of time to commence project.

Commission members reviewed the request for the extension. Mr. Ginsberg said that Mr. Lesko has submitted a zoning permit application and will hopefully commence construction in the near future. The following motion was made: that the Commission grant a 6 month extension to commence construction activity and then the approved filling and regrading and drainage system must be completed within 12 months after that. The motion was made by Mr. Olvany, seconded by Mr. Sini and unanimously approved.

Chairman Cameron read the following agenda item:

Discussion of Total of Two Side Yards.

Commission members reviewed the March 4, 2016 Memorandum from David Keating, Zoning Enforcement Officer. They said that the examples provided are very helpful. The amendment to the Regulation requires that all new construction and all additions to existing structures comply with the total of two side yards. It does away with the “double penalty” if both the side yards are non-conforming. If a building is non-conforming with respect to side yard setback, the shortest actual side yard will be considered the “least side yard” as defined by the Regulations. The other side yard would have to then be equal to or greater than the required total of two side yards minus the least

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side yard. Commission members agreed with the Zoning Enforcement Officer's interpretation and said that if further clarifications would be needed in the future, then the staff is to come back to the Commission.

Chairman Cameron then read the following agenda item:

Deliberations and possible decision(s) on the following:

Coastal Site Plan Review #83-B, Flood Damage Prevention Application #71-B, Land Filling & Regrading Application #371, Justin Scott, 47 Pear Tree Point Road. Proposing to lift the existing residence; lift the garage slab and modify the internal circulation; regrade the driveway, garage access and new entrance stair; and perform related site development activities within regulated areas. *PUBLIC HEARING CLOSED ON 2/2/2016. DECISION DEADLINE: 4/7/2016.*

The following motion was made: That the Planning & Zoning Commission waive the process of reading all the draft resolution aloud because each member has had an opportunity to review the draft prior to the meeting. The motion was made by Mr. Di Donna, seconded by Mr. Cunningham and unanimously approved. Commission members reviewed and discussed the draft Resolution which is to approve the project subject to conditions and stipulations. Mrs. Cameron said that it is important to make sure that the comments from Darren Oustafine of the Darien Public Works Department be incorporated into the Resolution as noted in Item No. 11. All the Commission members agreed. The following motion was made: That the Commission adopt the following Resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. DiDonna, seconded by Mr. Olvany and unanimously approved.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
March 8, 2016**

Application Number: Coastal Site Plan Review #83-B
Flood Damage Prevention Application #71-B
Land Filling & Regrading Application #371

Street Address: 47 Pear Tree Point Road
Assessor's Map #60 Lot #51

Name and Address of Contract Purchaser: Justin Scott
4 Knollwood Drive
Greenwich, CT 06830

Name and Address of Current Property Owners: JHR Job BB & Ingeborg Sandberg
47 Pear Tree Point Road
Darien, CT 06820

Name and Address of Applicant & Applicant's Representative: Wilder G. Gleason, Esq.
Gleason & Associates, LLC
455 Boston Post Road, Suite 201
Darien, CT 06820

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Activity Being Applied For: Proposing to lift the existing residence; lift the garage slab and modify the internal circulation; regrade the driveway, garage access and new entrance stair; and perform related site development activities within regulated areas. During the public hearing, the applicant's representative noted that the shed/boathouse/pool house changes are no longer part of the application.

Property Location: The subject property is situated on the west side of Pear Tree Point Road, approximately 900 feet south of its northernmost intersection with Long Neck Point Road.

Zone: R-1

Date of Public Hearing: November 24, 2015 continued to January 26, 2016
and continued to February 2, 2016

Time and Place: 8:00 P.M. Rooms 119 (1/26) 206 (11/24 and 2/2) Town Hall

Publication of Hearing Notices

Dates: November 13 & 20, 2015

Newspaper: Darien News

Date of Action: March 8, 2016

Action: GRANTED IN PART WITH STIPULATIONS
AND WITHDRAWN IN PART

Scheduled Date of Publication of Action: Newspaper: Darien News
March 18, 2016

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, 820, 850, and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to lift the existing residence; lift the garage slab and modify the internal circulation; regrade the driveway, garage access and new entrance stair; and perform related site development activities within regulated areas. During the public hearing, the applicant's representative noted that the shed/boathouse/pool house changes are no longer part of the application. Thus, items f and g in the applicant's P&Z Narrative on 10-16-15 are not to be considered, and have been withdrawn.

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2. The public hearing on this matter was originally opened on November 24, 2015 and was immediately continued to January 26, 2016. At that January 26, 2016 hearing, the matter was immediately continued to February 2, 2016. These continuations in November and January allowed the applicant to pursue and receive the required variances from the Zoning Board of Appeals for the proposed work. At their January 20, 2016 meeting, the Zoning Board of Appeals granted in part variances for the proposed work, as part of ZBA Calendar #54-2015. That approval is hereby incorporated by reference.
3. The existing residence was originally constructed over 100 years ago. It is now within the flood zone. They propose to lift the house in place. The house is now non-conforming relative to setbacks. It also pre-dates zoning regulations, as portions of the house were constructed in the 1800s.

PROPOSED WORK WITHIN CAM AREA

4. The proposal is to lift the house five to six feet, so that the first floor is at elevation 16.0. The lifted house will conform with flood regulations. Some filling and driveway regrading will be needed. Stormwater management will be installed to address water quality.
5. At the public hearing, Mr. Justin Scott, the prospective purchaser, said that as part of this application, he will be lifting the house to comply with FEMA requirements. They will likely return to the Commission for future work on the boathouse, which will probably be a joint application with the adjacent property owner. They may add on to the house in the future.
6. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
7. The proposed activity is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes.
8. The potential adverse impacts of the proposed activity on coastal resources are acceptable.

PROPOSED WORK WITHIN THE FLOOD ZONE

9. The applicant's representative, Attorney Wilder Gleason said that the house is partially located in the flood zone. That results in a requirement that the first floor of the house has to be at elevation 15 or greater. As noted above, the applicant proposes a new first floor elevation of elevation 16.0. Flood vents will be part of the house, and will be certified by an architect.
10. The proposed activities, to be implemented with the conditions listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties.

LAND FILLING/REGRADE AND STORMWATER MANAGEMENT

11. Comments on the application were received from Darren Oustafine in an e-mail dated 11-13-2015. Mr. DiVesta, the applicant's engineer, responded to these comments at the public hearing. He said

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that they will be putting a lip on the driveway to keep water within the gutter line. The area behind the house is all lawn now, and all regrading will occur near Pear Tree Point Road.

12. The applicant is requesting a finding that stormwater management be waived due to the location of the property, and they will treat the first inch of water.
13. The plans also include proper installation of silt fence and anti-tracking pad, during the construction period.
14. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #83-B, Flood Damage Prevention Application #71-B, Land Filling & Regrading Application #371 are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Work shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
 - Scott Residence 47 Pear Tree Point Road, Proposed Site Plan, by DiVesta Civil Engineering Associates, Inc., last revised 12/07/15.
 - Zoning Location & Topographic Survey 47 Pear Tree Point Road prepared for Justin Scott, by William W. Seymour & Associates, last revised December 4, 2015.
 - Alterations to Scott Residence by Austin Patterson Disston Architects, issued on 1/13/2016, Drawing S-100, A-100, A-101, A-201, A-202.As noted above, shed/boathouse/pool house changes are no longer part of the application.
- B. Because of the minor nature of the site work involved in this project, the Commission hereby waives the requirement for a performance bond.
- C. Because of this property's location directly adjacent to Darien Harbor/Long Island Sound, the Commission is requiring that only water quality be addressed. The Commission is waiving the requirement for addressing stormwater quantity.
- D. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans in Condition A, above, and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- E. The applicant's engineer prepared a Stormwater Management Operation and Maintenance Plan (Appendix A in the October, 2015 Site Engineering Report by DiVesta Civil Engineering Associates). A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next 60 days of this approval and prior to the issuance of a Zoning and Building Permit for the proposed construction work.

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- F. A detailed regrading design and storm water drainage system design have been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. Prior to the request for the Certificate of Occupancy for the construction work, the applicant shall submit verification in writing and/or photographs from the professional designer of the drainage system that all aspects of the stormwater management and grading have been completed in compliance with the approved plans referred to in Condition A, above.
- G. Once the project is complete, and prior to March 8, 2017, the applicant shall submit a final “as built” map and/or other evidence that all work has been properly completed in accordance with the approved plans. This shall include, but not be limited to, the driveway lip as noted in Item 11 on page 3 of this Resolution.
- H. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. This includes the requirement for Zoning Permit and Building Permits for the proposed construction. This includes, but is not limited to, a Sewer Disconnection Permit and subsequent Sewer Connection Permit for the residence to be lifted. A Street Opening Permit will be required from the Public Works Department for any work in the Pear Tree Point Road right-of-way.
- I. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- J. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (March 8, 2017). This may be extended as per Sections 815 and 829f.

A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next sixty days and prior to the issuance of a Zoning and Building Permit for construction work.

At about 10:00 p.m., Chairman Cameron then read the following agenda item:

Deliberations ONLY on the following:

Proposed Amendments to the Darien Zoning Regulations put forth by John Hertz & Robert Wood (COZR #2-2016). Proposing to modify Section 210 (Definitions) and Sections 540 to 550 (3.7 Acre Hollow Tree Ridge Road Small Acreage Zone for Affordable Housing) of the Darien Zoning Regulations to define Self Storage Facility and to allow self-storage facilities with associated office, workforce housing, and commuter parking in that zone by Special Permit. ***PUBLIC HEARING CLOSED: 2/23/2016. DECISION DEADLINE: 4/28/2016.***

Commission members reviewed and discussed the requested modification of the Regulations. Mr. Ginsberg said that one of the issues is the parking standard or requirement for self-storage facilities. Should it be based on square footage of the building; the number of storage units; the size of the proposed office; the total number of vehicles such as boats that can be stored on the site; or some

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other factor or combination of the above. Commission members noted that in this case, the applicant proposes to have the indoor storage, the outdoor storage of recreational vehicles such as boats and campers, and commuter parking. There will need to be sufficient on-site parking spaces for all the workers and adequate, temporary loading and unloading areas for all of the patrons. Mr. Olvany said that the parking requirement should not be based on the number of units because those will change depending on market demand. Commission members also noted that the use needs to be better defined so that construction and contractor vehicles would not be using the site on a daily “in-and-out” basis. There should be no commercial activity or commercially active vehicles or equipment stored on the premises. The intent is to have a storage facility and non-transient, non-commuter uses in the storage section of the property. Other important factors will be buffering, landscaping, lighting, and fencing. Commission members also noted that this would not be a center for storage or rental of moving vehicles. The applicant would need to better define what related services they propose and what related services would not be proposed. Commission members noted that some on-site housing is proposed, but it would be limited to workforce housing of those people who actually work on the site, not rental housing for others. The housing and/or office uses must be directly associated with the operation of this business at this site. Commission members said that there is a positive sense about the concept of changing the Regulations and now the details need to be worked out.

Chairman Cameron then read the following agenda item:

Subdivision Application #615, Flood Damage Prevention Application #189-A, Land Filling & Regrading Application #372, Michael Nikolas, 2 Silver Lakes Drive. Proposal to subdivide the existing property into two building lots, with association construction of single-family residences and associated filling and regrading and to perform related site development activities within a regulated area. *PUBLIC HEARING CLOSED: 2/23/2016. DECISION DEADLINE: 4/28/2016.*

Mrs. Cameron said that she was not present for the public hearing, but has reviewed all the materials. She said that the Environmental Protection Commission (EPC) approved it from a regulatory perspective, but as a Conservation Commission, they had many serious concerns, particularly about creating two building lots that will allow the construction of two new houses in the Flood Hazard Area. She felt that it is not appropriate to create any new lots that are entirely in the flood zone. The Commission members discussed this matter and concluded that the subdivision regulations do not preclude such activity when virtually the entire site is in the Flood Hazard Zone. In this case, they felt they would need to approve the application, but believed that an amendment to the Regulations would be appropriate in the future because creating building lots that require construction in the flood zone is not a good practice. Mr. Ginsberg was asked to draft a resolution for consideration at a future meeting.

At about 10:30 p.m., Chairman Cameron then read the following agenda item:

Proposed Amendments to the Darien Zoning Map (COZM #1-2016) and Proposed Amendments to the Darien Zoning Regulations (COZR #1-2016), put forth by Parklands Office Park, LLC. Proposal to modify the Darien Zoning Map. The subject properties proposed to be rezoned are:

- Parklands Office Park (#1 and #3 Parklands Drive) - shown on Assessor’s Map #35 as Lot #34 - which is proposed to be rezoned from DOR-5, R-1/2 and R-1 to be entirely DOR-1.

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Parklands Office Park is property 7.9+/- acres in size generally located between the I-95 northbound rest area and properties on the westerly side of Fairmead Road. It is located at the end of Parklands Drive approximately 400 feet south of its intersection with Old Kings Highway North; and

- A portion of State of CT DOT I-95 right-of-way and a portion of the adjacent northbound rest stop property (#1 CT Turnpike East) - shown on Assessor's Map #35 as Lot #36 - which is proposed to be rezoned from DOR-5 to DOR-1; and
- A portion of the Fairmead Road right of way south of #23 Fairmead Road which is proposed to be rezoned from DOR-5 to R-1. This portion of right-of-way is 0.13+/- acres in size and shares its northerly point with the southerly point of #23 Fairmead Road and is 26+/- feet wide and 281+/- long.

Proposal to modify the Darien Zoning Regulations to: modify the definition of Assisted Living Facility (ALF) and to permit senior living facilities in the DOR-1 and DOR-5 zones and make other regulation changes to allow the adaptive re-use and expansion of an office building to be used as an Assisted Living and Memory Care facility (Modifying Section 210 and Sections 701, 703, 705, and 706). *PUBLIC HEARING CLOSED: 2/23/2016. DECISION DEADLINE: 4/28/2016.*

Commission members discussed the proposed reuse of the office building. Mr. DiDonna said that the building and property use would be changed from business to a special type of residential use. Mr. Cunningham said that he was impressed that there were no negative comments from any of the neighboring property owners. Commission members noted that there would be a shared parking between the rear office building and the proposed ALF/Memory Care use in the front building. They asked Mr. Ginsberg to draft a draft a resolution for consideration at a future meeting.

Chairman Cameron then read the following agenda item:

Land Filling & Regrading Application #376, Odd Group, LLC, 11 Sunswyck Road. Proposal to fill and regrade in conjunction with the construction of a replacement residence and pool, with associated stormwater management and septic system, and to perform related site development activities. *PUBLIC HEARING CLOSED 3/1/2016. DECISION DEADLINE: 5/4/2016.*

This is a project that involves replacing an existing house on a rear lot and revising the driveway. Commission members discussed the application and asked Mr. Ginsberg to draft a resolution of approval for consideration at a future meeting.

Chairman Cameron then read the following agenda item:

Flood Damage Prevention Application #126-A, Land Filling & Regrading Application #379, Courtney Platt, 43 Contentment Island Road. Proposal to: create entry court/parking area in front of house; remove pool, retaining wall and terrace in back yard; add fill and lawn where pool was; and perform related site development activities within a regulated area. *PUBLIC HEARING CLOSED 3/1/2016. DECISION DEADLINE: 5/4/2016.*

Commission members reviewed and discussed the project which involves removing of a swimming pool and other site modifications. They asked Mr. Ginsberg to draft a resolution of approval for consideration at a future meeting.

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Chairman Cameron then read the following agenda item:

Discussion of upcoming schedule.

Mr. Ginsberg said that the Commission will not be meeting on March 15th, but will be meeting on March 22nd and 29th. Both of those agendas are full.

Chairman Cameron then read the following agenda item:

Approval of Minutes

January 26, 2016 Executive Session/Public Hearing/General Meeting

The Commission reviewed and discussed the minutes of January 26, 2016. The following motion was made: to approve the minutes as presented. The motion was made by Mr. Olvany, seconded by Mr. Voigt and unanimously approved. They postponed action on the other three sets of Minutes.

February 2, 2016 General Meeting/Public Hearing

February 9, 2016 General Meeting

February 23, 2016 Public Hearing

The approval of the three sets of minutes was tabled until a subsequent meeting.

Any Other Business (Requires two-thirds vote of Commission)

The following motion was made: That the Commission discuss pending litigation under other business. The motion was made by Mr. Sini, seconded by Mr. Voigt and unanimously approved. During the discussion about litigation, no motions were made and no actions were taken.

At 10:37 P.M., the following motion was made: that the Commission adjourns the meeting. The motion was made by Mr. Olvany, seconded by Mr. Sini and unanimously approved.

Respectfully submitted,

David J. Keating
Assistant Director of Planning & Zoning

03.08.2016min